

STAT

Page Denied

Approved For Release 2009/07/15 : CIA-RDP05T00644R000200770002-7

Note for Admiral Turner

Re your question on when the prohibition
against assassination [murder] was instituted.

President Ford's E.O. 11905 specifically
forbade "political assassination" - see
clip at p. 31.

STAT

Approved For Release 2009/07/15 : CIA-RDP05T00644R000200770002-7



PART III:

THE PRESIDENT

UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES

Executive Order 11905

१०८

Title 3—The President

Executive Order 11905

February 18, 1976

United States Foreign Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the National Security Act of 1947, as amended, and as President of the United States of America, it is hereby ordered as follows:

TABLE OF CONTENTS

Section	Description	Page
1	PURPOSE.....	2
2	DEFINITIONS.....	2
3	CONTROL AND DIRECTION OF INTELLIGENCE ORGANIZATIONS.....	4
	(a) National Security Council-----	4
	(b) Committee on Foreign Intelligence-----	5
	(c) Operations Advisory Group-----	6
	(d) Director of Central Intelligence-----	7
4	RESPONSIBILITIES AND DUTIES OF THE INTELLIGENCE COMMUNITY.....	11
	(a) Senior Official of Each Organization of the Intelligence Community-----	12
	(b) Central Intelligence Agency-----	14
	(c) Department of State-----	16
	(d) Department of the Treasury-----	17
	(e) Department of Defense-----	18
	(f) Energy Research and Development Administration-----	21
	(g) Federal Bureau of Investigation--	22
5	RESTRICTIONS ON INTELLIGENCE ACTIVITIES	23
6	OVERSIGHT OF INTELLIGENCE ORGANIZATIONS	31
7	SECURITY PROTECTION.....	35
8	ENABLING DATA.....	35

THE PRESIDENT

2

Section 1. Purpose. The purpose of this Order is to establish policies to improve the quality of intelligence needed for national security, to clarify the authority and responsibilities of the intelligence departments and agencies, and to establish effective oversight to assure compliance with law in the management and direction of intelligence agencies and departments of the national government.

Sec. 2. Definitions. For the purpose of this Order, unless otherwise indicated, the following terms shall have these meanings:

(a) Intelligence means:

(1) Foreign intelligence which means information, other than foreign counterintelligence, on the capabilities, intentions and activities of foreign powers, organizations or their agents; and

(2) Foreign counterintelligence which means activities conducted to protect the United States and United States citizens from foreign espionage, sabotage, subversion, assassination or terrorism.

(b) Intelligence Community refers to the following organizations:

- (1) Central Intelligence Agency;
- (2) National Security Agency;
- (3) Defense Intelligence Agency;

- (4) Special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs;
- (5) Intelligence elements of the military services;
- (6) Intelligence element of the Federal Bureau of Investigation;
- (7) Intelligence element of the Department of State;
- (8) Intelligence element of the Department of the Treasury; and
- (9) Intelligence element of the Energy Research and Development Administration.

(c) Special activities in support of national foreign policy objectives means activities, other than the collection and production of intelligence and related support functions, designed to further official United States programs and policies abroad which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged.

(d) National Foreign Intelligence Program means the programs of the Central Intelligence Agency and the special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs, the Consolidated Cryptologic Program, and those elements of the General Defense Intelligence Program and other programs of the departments and agencies, not including tactical intelligence, designated by the Committee on Foreign Intelligence as part of the Program.

Sec. 3. Control and Direction of National Intelligence Organizations.

(a) National Security Council.

(1) The National Security Council was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Statutory members of the National Security Council are the President, the Vice President, the Secretary of State, and the Secretary of Defense.

(2) Among its responsibilities, the National Security Council shall provide guidance and direction to the development and formulation of national intelligence activities.

(3) The National Security Council shall conduct a semi-annual review of intelligence policies and of ongoing special activities in support of national Foreign policy objectives. These reviews shall consider the needs of users of intelligence and the timeliness and quality of intelligence products and the continued appropriateness of special activities in support of national Foreign policy objectives. The National Security Council shall consult with the Secretary of the Treasury and such other users of intelligence as designated by the President as part of these reviews.

(b) Committee on Foreign Intelligence.

(1) There is established the Committee on Foreign Intelligence (hereinafter referred to as the CFI), which shall be composed of the Director of Central Intelligence, hereinafter referred to as the DCI, who shall be the Chairman; the Deputy Secretary of Defense for Intelligence; and the Deputy Assistant to the President for National Security Affairs. The CFI shall report directly to the National Security Council.

(2) The CFI shall (i) control budget preparation and resource allocation for the National Foreign Intelligence Program.

(A) The CFI shall, prior to submission to the Office of Management and Budget, review, and amend as it deems appropriate, the budget for the National Foreign Intelligence Program.

(B) The CFI shall also adopt rules governing the reprogramming of funds within this budget. Such rules may require that reprogrammings of certain types or amounts be given prior approval by the CFI.

(ii) Establish policy priorities for the collection and production of national intelligence.

(iii) Establish policy for the management of the National Foreign Intelligence Program.

THE PRESIDENT

6

(iv) Provide guidance on the relationship between tactical and national intelligence; however, neither the DCI nor the CFI shall have responsibility for tactical intelligence.

(v) Provide continuing guidance to the Intelligence Community in order to ensure compliance with policy directions of the NSC.

(3) The CFI shall be supported by the Intelligence Community staff headed by the Deputy to the Director of Central Intelligence for the Intelligence Community.

(4) The CFI shall establish such subcommittees as it deems appropriate to ensure consultation with members of the Intelligence Community on policies and guidance issued by the CFI.

(5) Decisions of the CFI may be reviewed by the National Security Council upon appeal by the Director of Central Intelligence or any member of the National Security Council.

(c) The Operations Advisory Group.

(1) There is established the Operations Advisory Group (hereinafter referred to as the Operations Group), which shall be composed of the Assistant to the President for National Security Affairs; the Secretaries of State and Defense; the Chairman of the Joint Chiefs of Staff; and the Director of Central Intelligence. The Chairman shall be designated by the President. The Attorney General and the Director

of the Office of Management and Budget or their representatives, and others who may be designated by the President, shall attend all meetings as observers.

(2) The Operations Group shall (i) consider and develop a policy recommendation, including any dissents, for the President prior to his decision on each special activity in support of national foreign policy objectives.

(ii) Conduct periodic reviews of programs previously considered by the Operations Group.

(iii) Give approval for specific sensitive intelligence collection operations as designated by the Operations Group.

(iv) Conduct periodic reviews of ongoing sensitive intelligence collection operations.

(3) The Operations Group shall discharge the responsibilities assigned by subparagraphs (c) (2) (i) and (c) (2) (iii) of this section only after consideration in a formal meeting attended by all members and observers; or, in unusual circumstances when any member or observer is unavailable, when a designated representative of the member or observer attends.

(4) The staff of the National Security Council shall provide support to the Operations Group.

(d) Director of Central Intelligence.

(1) The Director of Central Intelligence,

pursuant to the National Security Act of 1947, shall be responsible directly to the National Security Council and the President. He shall:

- (i) Chair the CFI.
- (ii) Act as executive head of the CIA and Intelligence Community staff.
- (iii) Ensure the development and submission of a budget for the National Foreign Intelligence Program to the CFI.
- (iv) Act as the President's primary adviser on foreign intelligence and provide him and other officials in the Executive branch with foreign intelligence, including National Intelligence Estimates; develop national intelligence requirements and priorities; and supervise production and dissemination of national intelligence.
- (v) Ensure appropriate implementation of special activities in support of national foreign policy objectives.
- (vi) Establish procedures to ensure the propriety of requests, and responses thereto, from the White House Staff or other Executive departments and agencies to the Intelligence Community.
- (vii) Ensure that appropriate programs are developed which properly protect intelligence sources, methods and analytical procedures. His responsibility within the United States shall be limited to:

(A) Protection by lawful means against disclosure by present or former employees of the Central Intelligence Agency or persons, or employees of persons or organizations, presently or formerly under contract with the Agency;

(B) providing leadership, guidance and technical assistance to other government departments and agencies performing foreign intelligence activities; and

(C) in cases involving serious or continuing security violations, recommending to the Attorney General that the case be referred to the Federal Bureau of Investigation for further investigation.

(viii) Establish a vigorous program to downgrade and declassify foreign intelligence information as appropriate and consistent with Executive Order No. 11652.

(ix) Ensure the existence of strong Inspector General capabilities in all elements of the Intelligence Community and that each Inspector General submits quarterly to the Intelligence Oversight Board a report which sets forth any questionable activities in which that intelligence organization has engaged or is engaged.

(x) Ensure the establishment, by the Intelligence Community, of common security standards for managing and handling foreign intelligence systems, information and products, and for granting access thereto.

7712

THE PRESIDENT

10

(xi) Act as the principal spokesman to the Congress for the Intelligence Community and facilitate the use of foreign intelligence products by Congress.

(xii) Promote the development and maintenance by the Central Intelligence Agency of services of common concern to the Intelligence Community organizations, including multi-discipline analysis, national level intelligence products, and a national level current intelligence publication.

(xiii) Establish uniform criteria for the identification, selection, and designation of relative priorities for the transmission of critical intelligence, and provide the Secretary of Defense with continuing guidance as to the communications requirements of the Intelligence Community for the transmission of such intelligence.

(xiv) Establish such committees of collectors, producers and users of intelligence to assist in his conduct of his responsibilities as he deems appropriate.

(xv) Consult with users and producers of intelligence, including the Departments of State, Treasury, and Defense, the military services, the Federal Bureau of Investigation, the Energy Research and Development Administration, and the Council of Economic Advisors, to ensure the timeliness, relevancy and quality of the intelligence product.

11

(2) To assist the Director of Central Intelligence in the supervision and direction of the Intelligence Community, the position of Deputy to the Director of Central Intelligence for the Intelligence Community is hereby established (Committee on Foreign Intelligence).

(3) To assist the Director of Central Intelligence in the supervision and direction of the Central Intelligence Agency, the Director of Central Intelligence shall, to the extent consistent with his statutory responsibilities, delegate the day-to-day operation of the Central Intelligence Agency to the Deputy Director of Central Intelligence (50 U.S.C. 403(a)).

(4) To assist the DCI in the fulfillment of his responsibilities, the heads of all departments and agencies shall give him access to all information relevant to the foreign intelligence needs of the United States. Relevant information requested by the DCI shall be provided, and the DCI shall take appropriate steps to maintain its confidentiality.

Sec. 4. Responsibilities and Duties of the Intelligence Community. Purpose. The rules of operation prescribed by this section of the Order relate to the activities of our foreign intelligence agencies. In some instances, detailed implementation of this Executive order will be contained in classified documents because of the sensitivity of the information and its relation

to national security. All such classified instructions will be consistent with this Order. Unless otherwise specified within this section, its provisions apply to activities both inside and outside the United States, and all references to law are to applicable laws of the United States. Nothing in this section of this Order shall be construed to interfere with any law-enforcement responsibility of any department or agency.

(a) Senior Officials of the Intelligence Community.

The senior officials of the CIA, Departments of State, Treasury and Defense, ERDA and the FBI shall ensure that, in discharging the duties and responsibilities enumerated for their organizations which relate to foreign intelligence, they are responsive to the needs of the President, the National Security Council and other elements of the Government. In carrying out their duties and responsibilities, senior officials shall ensure that all policies and directives relating to intelligence activities are carried out in accordance with law and this Order, including Section 5, and shall:

(1) Make appropriate use of the capabilities of the other elements of the Intelligence Community in order to achieve maximum efficiency.

(2) Contribute in areas of his responsibility to the national intelligence products produced under auspices of the Director of Central Intelligence.

(3) Establish internal policies and guidelines governing employee conduct and ensuring that such are made known to, and acknowledged by, each employee.

(4) Provide for a strong and independent organization for identification and inspection of, and reporting on, unauthorized activity.

(5) Report to the Attorney General that information which relates to detection or prevention of possible violations of law by any person, including an employee of the senior official's department or agency.

(6) Furnish to the Director of Central Intelligence, the CFI, the Operations Group, the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight Board all of the information required for the performance of their respective duties.

(7) Participate, as appropriate, in the provision of services of common concern as directed by the Director of Central Intelligence and provide other departments and agencies with such mutual assistance as may be within his capabilities and as may be required in the interests of the Intelligence Community for reasons of economy, effectiveness, or operational necessity.

(8) Protect intelligence and intelligence sources and methods within his department or agency, consistent with policies and guidance of the Director of Central Intelligence.

(9) Conduct a continuing review of all classified material originating within his organization and promptly declassifying such material consistent with Executive Order No. 11652, as amended.

(10) Provide administrative and support functions required by his department or agency.

(b) The Central Intelligence Agency. All duties and responsibilities of the Central Intelligence Agency shall be related to the foreign intelligence functions outlined below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations, and directives, the Central Intelligence Agency shall:

(1) Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, sociological, and geographic intelligence, to meet the needs of the President, the National Security Council, and other elements of the United States Government.

(2) Develop and conduct programs to collect political, economic, scientific, technical, military, geographic, and sociological information, not otherwise

THE PRESIDENT

7717

15

obtainable, relating to foreign intelligence, in accordance with directives of the National Security Council.

(3) Collect and produce intelligence on foreign aspects of international terrorist activities and traffic in narcotics.

(4) Conduct foreign counterintelligence activities outside the United States and when in the United States in coordination with the FBI subject to the approval of the Attorney General.

(5) Carry out such other special activities in support of national foreign policy objectives as may be directed by the President or the National Security Council and which are within the limits of applicable law.

(6) Conduct, for the Intelligence Community, services of common concern as directed by the National Security Council, such as monitoring of foreign public radio and television broadcasts and foreign press services, collection of foreign intelligence information from cooperating sources in the United States, acquisition and translation of foreign publications and photographic interpretation.

(7) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized in this subsection.

THE PRESIDENT

16

(8) Protect the security of its installations, activities, information and personnel. In order to maintain this security, the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.

(9) Conduct administrative, technical and support activities in the United States or abroad as may be necessary to perform the functions described in paragraphs (1) through (8) above, including procurement, maintenance and transport; communications and data processing; recruitment and training; the provision of personnel, financial and medical services; development of essential cover and proprietary arrangements; entering into contracts and arrangements with appropriate private companies and institutions to provide classified or unclassified research, analytical and developmental services and specialized expertise; and entering into similar arrangements with academic institutions, provided CIA sponsorship is known to the appropriate senior officials of the academic institutions and to senior project officials.

(c) The Department of State. The Secretary of State shall:

(1) Collect, overtly, foreign political, political-military, sociological, economic, scientific, technical and associated biographic information.

THE PRESIDENT

7719

17

(2) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of his responsibilities and in support of policy-makers involved in foreign relations within the United States Government.

(3) Disseminate within the United States Government, as appropriate, reports received from United States diplomatic missions abroad.

(4) Coordinate with the Director of Central Intelligence to ensure that United States intelligence activities and programs are useful for and consistent with United States foreign policy.

(5) Transmit reporting requirements of the Intelligence Community to our Chiefs of Missions abroad and provide guidance for their collection effort.

(6) Contribute to the Intelligence Community guidance for its collection of intelligence based on the needs of those responsible for foreign policy decisions.

(7) Support Chiefs of Missions in discharging their responsibilities to direct and coordinate the activities of all elements of their missions.

(d) The Department of the Treasury. The Secretary of the Treasury shall:

(1) Collect, overtly, foreign financial and monetary information.

THE PRESIDENT

18

(2) Participate with the Department of State in the overt collection of general foreign economic information.

(3) Produce that intelligence required for the execution of the Secretary's interdepartmental responsibilities and the mission of the Department of the Treasury.

(4) Contribute intelligence and guidance required for the development of national intelligence.

(5) Disseminate within the United States Government, as appropriate, foreign intelligence information acquired.

(e) Department of Defense.

(1) The Secretary of Defense shall:

(i) Collect foreign military intelligence information as well as military-related foreign intelligence information, including scientific, technical, political and economic information as required for the execution of his responsibilities.

(ii) Produce and disseminate, as appropriate, intelligence emphasizing foreign military capabilities and intentions and scientific, technical and economic developments pertinent to his responsibilities.

(iii) Conduct such programs and missions necessary to fulfill national intelligence requirements as determined by the CFI.

(iv) Direct, fund and operate the National Security Agency, and national, defense and military intelligence and reconnaissance entities as required.

(v) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security, except as otherwise approved by the CFI.

(vi) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government.

(2) In carrying out these assigned responsibilities, the Secretary of Defense is authorized to utilize the following:

(i) The Defense Intelligence Agency (whose functions, authorities and responsibilities are currently publicly assigned by Department of Defense Directive No. 5105.21) to:

(A) Produce or provide military intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies.

(B) Coordinate all Department of Defense intelligence collection requirements and manage the Defense Attaché system.

(C) Establish substantive intelligence priority goals and objectives for the Department of Defense and provide guidance on substantive intelligence matters to all major Defense intelligence activities.

(D) Review and maintain cognizance over all plans, policies and procedures for noncryptologic intelligence functions of the Department of Defense.

(E) Provide intelligence staff support as directed by the Joint Chiefs of Staff.

(ii) The National Security Agency, whose functions, authorities and responsibilities shall include:

(A) Establishment and operation of an effective unified organization for the signals intelligence activities of the United States Government, except for certain operations which are normally exercised through appropriate elements of the military command structure, or by the CIA.

(B) Exercise control over signals intelligence collection and processing activities of the Government, delegating to an appropriate agent specified resources for such periods and tasks as required for the direct support of military commanders.

(C) Collection, processing and dissemination of signals intelligence in accordance with objectives, requirements, and priorities established by the Director of Central Intelligence.

(D) Dissemination of signals intelligence to all authorized elements of the Government, including the Armed Services, as requested.

(E) Serving under the Secretary of Defense as the central communications security authority of the United States Government.

THE PRESIDENT

7723

21

(F) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security.

(iii) Special offices for the collection of specialized intelligence through reconnaissance programs, whose functions, authorities, and responsibilities shall include:

(A) Carrying out consolidated programs for reconnaissance.

(B) Assigning responsibility to the various departments and agencies of the Government, according to their capabilities, for the research, development, procurement, operations and control of designated means of collection.

(iv) Such other offices within the Department of Defense as shall be deemed appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.

(f) Energy Research and Development Administration.

The Administrator of the Energy Research and Development Administration shall:

(1) Produce intelligence required for the execution of his responsibilities and the mission of the Energy Research and Development Administration, herein-after referred to as ERDA, including the area of nuclear and atomic energy.

(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations and be responsive to the guidance of the Director of Central Intelligence and the Committee on Foreign Intelligence.

(3) Participate with other Intelligence Community agencies and departments in formulating collection requirements where its special technical expertise can contribute to such collection requirements.

(g) The Federal Bureau of Investigation. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(1) Detect and prevent espionage, sabotage, subversion, and other unlawful activities by or on behalf of foreign powers through such lawful counterintelligence operations within the United States, including electronic surveillance, as are necessary or useful for such purposes.

(2) Conduct within the United States and its territories, when requested by officials of the Intelligence Community designated by the President, those lawful activities, including electronic surveillance, authorized by the President and specifically approved by the Attorney General, to be undertaken in support of foreign intelligence collection requirements of other intelligence agencies.

(3) Collect foreign intelligence by lawful means within the United States and its territories when requested by officials of the Intelligence Community designated by the President to make such requests.

(4) Disseminate, as appropriate, foreign intelligence and counterintelligence information which it acquires to appropriate Federal agencies, State and local law enforcement agencies and cooperating foreign governments.

(5) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Sec. 5. Restrictions on Intelligence Activities.

Information about the capabilities, intentions and activities of other governments is essential to informed decision-making in the field of national defense and foreign relations. The measures employed to acquire such information should be responsive to the legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties.

Recent events have clearly indicated the desirability of government-wide direction which will ensure a proper balancing of these interests. This section of this Order does not authorize any activity not previously authorized

and does not provide exemption from any restrictions otherwise applicable. Unless otherwise specified, the provisions of this section apply to activities both inside and outside the United States. References to law are to applicable laws of the United States.

(a) Definitions. As used in this section of this Order, the following terms shall have the meanings ascribed to them below:

(1) "Collection" means any one or more of the gathering, analysis, dissemination or storage of non-publicly available information without the informed express consent of the subject of the information.

(2) "Counterintelligence" means information concerning the protection of foreign intelligence or of national security information and its collection from detection or disclosure.

(3) "Electronic surveillance" means acquisition of a non-public communication by electronic means, without the consent of a person who is a party to, or, in the case of a non-electronic communication, visibly present at, the communication.

(4) "Employee" means a person employed by, assigned or detailed to, or acting for a United States foreign intelligence agency.

(5) "Foreign intelligence" means information concerning the capabilities, intentions and activities of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.

(6) "Foreign intelligence agency" means the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency; and further includes any other department or agency of the United States Government or component thereof while it is engaged in the collection of foreign intelligence or counter-intelligence, but shall not include any such department, agency or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it include in any case the Federal Bureau of Investigation.

(7) "National security information" has the meaning ascribed to it in Executive Order No. 11652, as amended.

(8) "Physical surveillance" means continuing visual observation by any means; or acquisition of a non-public communication by a person not a party thereto or visibly present thereat through any means which does not involve electronic surveillance.

(9) "United States person" means United States citizens, aliens admitted to the United States for permanent residence and corporations or other organizations incorporated or organized in the United States.

(b) Restrictions on Collection. Foreign intelligence agencies shall not engage in any of the following activities:

(1) Physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the foreign intelligence agency and directed against any of the following:

(i) A present or former employee of such agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; or

(ii) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(iii) a United States person outside the United States who is reasonably believed to be acting on behalf

Approved For Release 2009/07/15 : CIA-RDP05T00644R000200770002-7

GT

I gave you some bad info on Adm T's question on the Ford/Carter EO.
He is interested in specific controls over relationships with Americans.
There is a whole section that says says you won't eavesdrop electronically,
join organizations to infiltrate, and assassinations. He wants to be
able to say that those specifics which said you couldn't spy on
Americans were the same under Ford as under Carter. Were the things
we were prohibited from doing the same?

Approved For Release 2009/07/15 : CIA-RDP05T00644R000200770002-7

4/9/81

Bennally yes. The only differences are:

1. 12036 (Carter's) is more specific than 11905 - more tightly written / less vague
2. 11905 does not specifically address these issues and 12036 does.

- "TV cameras & Other monitoring" (but 11905 does prohibit electronic surveillance which might be interpreted to include TV, etc)

- restrictions on contracting
- restrictions on personnel assigned to other agencies
- restrictions on indirect participation in prohibited activities.

STAT

I've V'ed the items in the Table of Contents of 12036 which are also included in 11905.



THURSDAY, JANUARY 26, 1978
PART II



THE PRESIDENT

**UNITED STATES
INTELLIGENCE ACTIVITIES**

Executive Order 12036

SECRET

TOP SECRET

presidential documents

[3195-01]

Title 3—The President

Executive Order 12036

January 24, 1978

United States Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States of America including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the organization and control of United States foreign intelligence activities, it is hereby ordered as follows:

TABLE OF CONTENTS

SECTION I	DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL INTELLIGENCE EFFORT	[FR page]
1-1	National Security Council	[3675]
1-2	NSC Policy Review Committee	[3675]
1-3	NSC Special Coordination Committee	[3675]
1-4	National Foreign Intelligence Board	[3676]
1-5	National Intelligence Tasking Center	[3677]
1-6	The Director of Central Intelligence	[3677]
1-7	Senior Officials of the Intelligence Community	[3679]
1-8	The Central Intelligence Agency	[3680]
1-9	The Department of State	[3681]
1-10	The Department of the Treasury	[3681]
1-11	The Department of Defense	[3681]
1-12	Intelligence Components Utilized by the Secretary of Defense	[3682]
1-13	The Department of Energy	[3684]
1-14	The Federal Bureau of Investigation	[3684]
1-15	The Drug Enforcement Administration	[3684]
SECTION 2		
RESTRICTIONS ON INTELLIGENCE ACTIVITIES		
2-1	Adherence to Law	[3684]
2-2	Restrictions on Certain Collection Techniques	[3685]
2-201	General Provisions	[3685]
2-202	✓ Electronic Surveillance	[3685]
2-203	Television Cameras and Other Monitoring	[3685]
2-204	✓ Physical Searches	[3685]
2-205	✓ Mail Surveillance	[3685]
2-206	✓ Physical Surveillance	[3685]
2-207	✓ Undisclosed Participation in Domestic Organizations	[3686]
2-208	✓ Collection of Nonpublicly Available Information	[3686]
2-209	✓ Additional Restrictions and Limitations	[3687]
2-301	✓ Tax Information	[3687]
2-302	✓ Restrictions on Experimentation	[3687]
2-303	Restrictions on Contracting	[3687]
2-304	✓ Restrictions on Personnel Assigned to Other Agencies	[3687]
2-305	Restrictions on Assassination	[3687]
2-306	Restrictions on Special Activities	[3687]
2-307	Restrictions on Indirect Participation in Prohibited Activities	[3687]
2-308	✓ Restrictions on Assistance to Law Enforcement Authorities	[3688]
2-309	✓ Permissible Assistance to Law Enforcement Authorities	[3688]
2-310	✓ Permissible Dissemination and Storage of Information	[3688]
SECTION 3		
OVERSIGHT OF INTELLIGENCE ORGANIZATIONS		
3-1	Intelligence Oversight Board	[3688]
3-2	Inspectors General and General Counsel	[3689]
3-3	Attorney General	[3689]
3-4	Congressional Intelligence Committees	[3689]
SECTION 4		
GENERAL PROVISIONS		
4-1	Implementation	[3690]
4-2	Definitions	[3690]

THE PRESIDENT

3675

SECTION 1

DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL INTELLIGENCE EFFORT*

1-1. *National Security Council.*

1-101. *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for, and direction to the conduct of all national foreign intelligence and counterintelligence activities.

1-102. *Committees.* The NSC Policy Review Committee and Special Coordination Committee; in accordance with procedures established by the Assistant to the President for National Security Affairs, shall assist in carrying out the NSC's responsibilities in the foreign intelligence field.

1-2. *NSC Policy Review Committee.*

1-201. *Membership.* The NSC Policy Review Committee (PRC), when carrying out responsibilities assigned in this Order, shall be chaired by the Director of Central Intelligence and composed of the Vice President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Assistant to the President for National Security Affairs, and the Chairman of the Joint Chiefs of Staff, or their designees, and other senior officials, as appropriate.

1-202. *Duties.* The PRC shall:

- (a) Establish requirements and priorities for national foreign intelligence;
- (b) Review the National Foreign Intelligence Program and budget proposals and report to the President as to whether the resource allocations for intelligence capabilities are responsive to the intelligence requirements of the members of the NSC;
- (c) Conduct periodic reviews of national foreign intelligence products, evaluate the quality of the intelligence product, develop policy guidance to ensure quality intelligence and to meet changing intelligence requirements; and
- (d) Submit an annual report on its activities to the NSC.

1-203. *Appeals.* Recommendations of the PRC on intelligence matters may be appealed to the President or the NSC by any member of PRC.

1-3. *NSC Special Coordination Committee.*

1-301. *Membership.* The NSC Special Coordination Committee (SCC) is chaired by the Assistant to the President for National Security Affairs and its membership includes the statutory members of the NSC and other senior officials, as appropriate.

1-302. *Special Activities.* The SCC shall consider and submit to the President a policy recommendation, including all dissents, on each special activity. When meeting for this purpose, the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence.

1-303. *Sensitive Foreign Intelligence Collection Operations.* Under standards established by the President, proposals for sensitive foreign intelligence collection operations shall be reported to the Chairman by the Director of Central Intelligence for appropriate review and approval. When meeting for the purpose of reviewing proposals for sensitive foreign intelligence collection operations,

*Certain technical terms are defined in Section 4-2.

THE PRESIDENT

the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Assistant to the President for National Security Affairs, the Director of Central Intelligence, and such other members designated by the Chairman to ensure proper consideration of these operations.

1-304. *Counterintelligence.* The SCC shall develop policy with respect to the conduct of counterintelligence activities. When meeting for this purpose the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, and the Director of the FBI. The SCC's counterintelligence functions shall include:

- (a) Developing standards and doctrine for the counterintelligence activities of the United States;
- (b) Resolving interagency differences concerning implementation of counterintelligence policy;
- (c) Developing and monitoring guidelines consistent with this Order for the maintenance of central records of counterintelligence information;
- (d) Submitting to the President an overall annual assessment of the relative threat to United States interests from intelligence and security services of foreign powers and from international terrorist activities, including an assessment of the effectiveness of the United States counterintelligence activities; and
- (e) Approving counterintelligence activities which, under such standards as may be established by the President, require SCC approval.

1-305. *Required Membership.* The SCC shall discharge the responsibilities assigned by sections 1-302 through 1-304 only after consideration in a meeting at which all designated members are present or, in unusual circumstances when any such member is unavailable, when a designated representative of the member attends.

1-306. *Additional Duties.* The SCC shall also:

- (a) Conduct an annual review of ongoing special activities and sensitive national foreign intelligence collection operations and report thereon to the NSC; and
- (b) Carry out such other coordination and review activities as the President may direct.

1-307. *Appeals.* Any member of the SCC may appeal any decision to the President or the NSC.

I-4. National Foreign Intelligence Board:

1-401. *Establishment and Duties.* There is established a National Foreign Intelligence Board (NFIB) to advise the Director of Central Intelligence concerning:

- (a) Production, review, and coordination of national foreign intelligence;
- (b) The National Foreign Intelligence Program budget;
- (c) Interagency exchanges of foreign intelligence information;
- (d) Arrangements with foreign governments on intelligence matters;
- (e) The protection of intelligence sources and methods;
- (f) Activities of common concern; and
- (g) Other matters referred to it by the Director of Central Intelligence.

1-402. *Membership.* The NFIB shall be chaired by the Director of Central Intelligence and shall include other appropriate officers of the CIA, the Office of the Director of Central Intelligence, the Department of State, the Department of Defense, the Department of Justice, the Department of the Treasury, the Department of Energy, the Defense Intelligence Agency, the offices within the Department of Defense for reconnaissance programs, the National Security Agency and the FBI. A representative of the Assistant to the President for National Security Affairs may attend meetings of the NFIB as an observer.

THE PRESIDENT

3677

1-403. *Restricted Membership and Observers.* When the NFIB meets for the purpose of section 1-401(a), it shall be composed solely of the senior intelligence officers of the designated agencies. The senior intelligence officers of the Army, Navy and Air Force may attend all meetings of the NFIB as observers.

1-5. *National Intelligence Tasking Center.*

1-501. *Establishment.* There is established a National Intelligence Tasking Center (NITC) under the direction, control and management of the Director of Central Intelligence for coordinating and tasking national foreign intelligence collection activities. The NITC shall be staffed jointly by civilian and military personnel including designated representatives of the chiefs of each of the Department of Defense intelligence organizations engaged in national foreign intelligence activities. Other agencies within the Intelligence Community may also designate representatives.

1-502. *Responsibilities.* The NITC shall be the central mechanism by which the Director of Central Intelligence:

(a) Translates national foreign intelligence requirements and priorities developed by the PRC into specific collection objectives and targets for the Intelligence Community;

(b) Assigns targets and objectives to national foreign intelligence collection organizations and systems;

(c) Ensures the timely dissemination and exploitation of data for national foreign intelligence purposes gathered by national foreign intelligence collection means, and ensures the resulting intelligence flow is routed immediately to relevant components and commands;

(d) Provides advisory tasking concerning collection of national foreign intelligence to departments and agencies having information collection capabilities or intelligence assets that are not a part of the National Foreign Intelligence Program. Particular emphasis shall be placed on increasing the contribution of departments or agencies to the collection of information through overt means.

1-503. *Resolution of Conflicts.* The NITC shall have the authority to resolve conflicts of priority. Any PRC member may appeal such a resolution to the PRC; pending the PRC's decision, the tasking remains in effect.

1-504. *Transfer of Authority.* All responsibilities and authorities of the Director of Central Intelligence concerning the NITC shall be transferred to the Secretary of Defense upon the express direction of the President. To maintain readiness for such transfer, the Secretary of Defense shall, with advance agreement of the Director of Central Intelligence, assume temporarily during regular practice exercises all responsibilities and authorities of the Director of Central Intelligence concerning the NITC.

1-6. *The Director of Central Intelligence.*

1-601. *Duties.* The Director of Central Intelligence shall be responsible directly to the NSC and, in addition to the duties specified elsewhere in this Order, shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Be the head of the CIA and of such staff elements as may be required for discharge of the Director's Intelligence Community responsibilities;

(c) Act, in appropriate consultation with the departments and agencies, as the Intelligence Community's principal spokesperson to the Congress, the news media and the public, and facilitate the use of national foreign intelligence products by the Congress in a secure manner;

(d) Develop, consistent with the requirements and priorities established by the PRC, such objectives and guidance for the Intelligence Community as will

THE PRESIDENT

enhance capabilities for responding to expected future needs for national foreign intelligence;

- (e) Promote the development and maintenance of services of common concern by designated foreign intelligence organizations on behalf of the Intelligence Community;
- (f) Ensure implementation of special activities;
- (g) Formulate policies concerning intelligence arrangements with foreign governments, and coordinate intelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments;
- (h) Conduct a program to protect against overclassification of foreign intelligence information;
- (i) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information and products;
- (j) Participate in the development of procedures required to be approved by the Attorney General governing the conduct of intelligence activities;
- (k) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;
- (l) Provide appropriate intelligence to departments and agencies not within the Intelligence Community; and
- (m) Establish appropriate committees or other advisory groups to assist in the execution of the foregoing responsibilities.

1-602. *National Foreign Intelligence Program Budget.* The Director of Central Intelligence shall, to the extent consistent with applicable law, have full and exclusive authority for approval of the National Foreign Intelligence Program budget submitted to the President. Pursuant to this authority:

- (a) The Director of Central Intelligence shall provide guidance for program and budget development to program managers and heads of component activities and to department and agency heads;
- (b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence of proposed national programs and budgets in the format designated by the Director of Central Intelligence, by the program managers and heads of component activities, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities;
- (c) The Director of Central Intelligence shall review and evaluate the national program and budget submissions and, with the advice of the NFIB and the departments and agencies concerned, develop the consolidated National Foreign Intelligence Program budget and present it to the President through the Office of Management and Budget;
- (d) The Director of Central Intelligence shall present and justify the National Foreign Intelligence Program budget to the Congress;
- (e) The heads of the departments and agencies shall, in consultation with the Director of Central Intelligence, establish rates of obligation for appropriated funds;
- (f) The Director of Central Intelligence shall have full and exclusive authority for reprogramming National Foreign Intelligence Program funds, in accord with guidelines established by the Office of Management and Budget, but shall do so only after consultation with the head of the department affected and appropriate consultation with the Congress;

THE PRESIDENT

3679

(g) The departments and agencies may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

(h) The Director of Central Intelligence shall monitor National Foreign Intelligence Program implementation and may conduct program and performance audits and evaluations.

1-603. *Responsibility For National Foreign Intelligence.* The Director of Central Intelligence shall have full responsibility for production and dissemination of national foreign intelligence and have authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations. In doing so, the Director of Central Intelligence shall ensure that diverse points of view are considered fully and that differences of judgment within the Intelligence Community are brought to the attention of national policymakers.

1-604. *Protection of Sources, Methods and Procedures.* The Director of Central Intelligence shall ensure that programs are developed which protect intelligence sources, methods and analytical procedures, provided that this responsibility shall be limited within the United States to:

(a) Using lawful means to protect against disclosure by present or former employees of the CIA or the Office of the Director of Central Intelligence, or by persons or organizations presently or formerly under contract with such entities; and

(b) Providing policy, guidance and technical assistance to departments and agencies regarding protection of intelligence information, including information that may reveal intelligence sources and methods.

1-605. *Responsibility of Executive Branch Agencies.* The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant Attorney General procedures, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States and shall give due consideration to requests from the Director of Central Intelligence for appropriate support for CIA activities.

1-606. *Access to CIA Intelligence.* The Director of Central Intelligence, shall, in accordance with law and relevant Attorney General procedures, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Office of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies.

1-7. *Senior Officials of the Intelligence Community.* The senior officials of each of the agencies within the Intelligence Community shall:

1-701. Ensure that all activities of their agencies are carried out in accordance with applicable law;

1-702. Make use of the capabilities of other agencies within the Intelligence Community in order to achieve efficiency and mutual assistance;

1-703. Contribute in their areas of responsibility to the national foreign intelligence products;

1-704. Establish internal policies and guidelines governing employee conduct and ensure that such are made known to each employee;

1-705. Provide for strong, independent, internal means to identify, inspect, and report on unlawful or improper activity;

1-706. Report to the Attorney General evidence of possible violations of federal criminal law by an employee of their department or agency, and report to the Attorney General evidence of possible violations by any other person of those federal criminal laws specified in guidelines adopted by the Attorney General;

THE PRESIDENT

1-707. In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

1-708. Furnish the Director of Central Intelligence, the PRC and the SCC, in accordance with applicable law and Attorney General procedures, the information required for the performance of their respective duties;

1-709. Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations which raise questions of legality or propriety;

1-710. Protect intelligence and intelligence sources and methods consistent with guidance from the Director of Central Intelligence and the NSC;

1-711. Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

1-712. Execute programs to protect against overclassification of foreign intelligence;

1-713. Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

1-714. Ensure that the Inspectors General and General Counsel of their agencies have access to any information necessary to perform their duties assigned by this Order.

1-8. The Central Intelligence Agency. All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations and directives, the CIA, under the direction of the NSC, shall:

1-801. Collect foreign intelligence, including information not otherwise obtainable, and develop, conduct, or provide support for technical and other programs which collect national foreign intelligence. The collection of information within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

1-802. Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, geographic and sociological intelligence to meet the needs of the President, the NSC, and other elements of the United States Government;

1-803. Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

1-804. Conduct counterintelligence activities outside the United States and coordinate counterintelligence activities conducted outside the United States by other agencies within the Intelligence Community;

1-805. Without assuming or performing any internal security functions, conduct counterintelligence activities within the United States, but only in coordination with the FBI and subject to the approval of the Attorney General;

1-806. Produce and disseminate counterintelligence studies and reports;

1-807. Coordinate the collection outside the United States of intelligence information not otherwise obtainable;

1-808. Conduct special activities approved by the President and carry out such activities consistent with applicable law;

1-809. Conduct services of common concern for the Intelligence Community as directed by the NSC;

1-810. Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

1-811. Protect the security of its installations, activities, information and personnel by appropriate means, including such investigations of applicants,

THE PRESIDENT

3681

employees, contractors, and other persons with similar associations with the CIA as are necessary;

1-812. Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections 1-801 through 1-811 above, including procurement and essential cover and proprietary arrangements.

1-813. Provide legal and legislative services and other administrative support to the Office of the Director of Central Intelligence.

1-9. *The Department of State.* The Secretary of State shall:

1-901. Overtly collect foreign political, sociological, economic, scientific, technical, political-military and associated biographic information;

1-902. Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

1-903. Disseminate, as appropriate, reports received from United States diplomatic and consular posts abroad;

1-904. Coordinate with the Director of Central Intelligence to ensure that national foreign intelligence activities are useful to and consistent with United States foreign policy;

1-905. Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

1-906. Support Chiefs of Mission in discharging their statutory responsibilities for direction and coordination of mission activities.

1-10. *The Department of the Treasury.* The Secretary of the Treasury shall:

1-1001. Overtly collect foreign financial and monetary information;

1-1002. Participate with the Department of State in the overt collection of general foreign economic information;

1-1003. Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

1-1004. Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1-11. *The Department of Defense.* The Secretary of Defense shall:

1-1101. Collect national foreign intelligence and be responsive to collection tasking by the NITC;

1-1102. Collect, produce and disseminate foreign military and military-related intelligence information, including scientific, technical, political, geographic and economic information as required for execution of the Secretary's responsibilities;

1-1103. Conduct programs and missions necessary to fulfill national and tactical foreign intelligence requirements;

1-1104. Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General, and produce and disseminate counterintelligence studies and reports;

THE PRESIDENT

1-1105. Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities;

1-1106. Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

1-1107. Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

1-1108. Review budget data and information on Department of Defense programs within the National Foreign Intelligence Program and review budgets submitted by program managers to the Director of Central Intelligence to ensure the appropriate relationship of the National Foreign Intelligence Program elements to the other elements of the Defense program;

1-1109. Monitor, evaluate and conduct performance audits of Department of Defense intelligence programs;

1-1110. Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

1-1111. Together with the Director of Central Intelligence, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs and provide the Director of Central Intelligence all information necessary for this purpose;

1-1112. Protect the security of Department of Defense installations, activities, information and personnel by appropriate means including such investigations of applicants, employees, contractors and other persons with similar associations with the Department of Defense as are necessary; and

1-1113. Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections 1-1101 through 1-1112 above.

1-12. *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in sections 1-1101 through 1-1113, the Secretary of Defense is authorized to utilize the following:

1-1201. *Defense Intelligence Agency*, whose responsibilities shall include:

(a) Production or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(b) Provision of military intelligence for national foreign intelligence products;

(c) Coordination of all Department of Defense intelligence collection requirements for departmental needs;

(d) Management of the Defense Attaché system; and

(e) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

1-1202. *National Security Agency (NSA)*, whose responsibilities shall include:

(a) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(b) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(c) Collection of signals intelligence information for national foreign intelligence purposes in accordance with tasking by the NITC;

THE PRESIDENT

3683

- (d) Processing of signals intelligence data for national foreign intelligence purposes consistent with standards for timeliness established by the Director of Central Intelligence;
- (e) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the NITC;
- (f) Collection, processing, and dissemination of signals intelligence information for counterintelligence purposes;
- (g) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;
- (h) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;
- (i) Conduct of research and development to meet needs of the United States for signals intelligence and communications security;
- (j) Protection of the security of its installations, activities, information and personnel by appropriate means including such investigations of applicants, employees, contractors and other persons with similar associations with the NSA as are necessary; and
- (k) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations.

1-1203. Offices for the collection of specialized intelligence through reconnaissance programs, whose responsibilities shall include:

- (a) Carrying out consolidated reconnaissance programs for specialized intelligence;
- (b) Responding to tasking through the NITC; and
- (c) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

1-1204. The foreign intelligence and counterintelligence elements of the military services, whose responsibilities shall include:

- (a) Collection, production and dissemination of military and military-related foreign intelligence, including information on indications and warnings, foreign capabilities, plans and weapons systems, scientific and technical developments and narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be tasked by the NITC. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;
- (b) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI, and production and dissemination of counterintelligence studies or reports; and
- (c) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

1-1205. Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense. If such other offices are used for intelligence purposes, the provisions of Sections 2-101 through 2-309 of this Order shall apply to those offices when used for those purposes.

THE PRESIDENT**1-13. *The Department of Energy.* The Secretary of Energy shall:**

1-1301. Participate with the Department of State in overtly collecting political, economic and technical information with respect to foreign energy matters;

1-1302. Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

1-1303. Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

1-1304. Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1-14. *The Federal Bureau of Investigation.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

1-1401. Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

1-1402. Conduct counterintelligence activities outside the United States in coordination with the CIA, subject to the approval of the Director of Central Intelligence;

1-1403. Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, lawful activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community;

1-1404. Produce and disseminate foreign intelligence, counterintelligence and counterintelligence studies and reports; and

1-1405. Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

1-15. *The Drug Enforcement Administration.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Administrator of DEA shall:

1-1501. Collect, produce and disseminate intelligence on the foreign and domestic aspects of narcotics production and trafficking in coordination with other agencies with responsibilities in these areas;

1-1502. Participate with the Department of State in the overt collection of general foreign political, economic and agricultural information relating to narcotics production and trafficking; and

1-1503. Coordinate with the Director of Central Intelligence to ensure that the foreign narcotics intelligence activities of DEA are consistent with other foreign intelligence programs.

SECTION 2**RESTRICTIONS ON INTELLIGENCE ACTIVITIES****2-1. *Adherence to Law.***

2-101. *Purpose.* Information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decision-making in the areas of national defense and foreign relations. The measures employed to acquire such information should be responsive to legitimate governmental needs and must be conducted in a manner that preserves and respects established concepts of privacy and civil liberties.

2-102. *Principles of Interpretation.* Sections 2-201 through 2-309 set forth limitations which, in addition to other applicable laws, are intended to achieve

THE PRESIDENT

3685

the proper balance between protection of individual rights and acquisition of essential information. Those sections do not authorize any activity not authorized by sections 1-101 through 1-1503 and do not provide any exemption from any other law.

2-2. Restrictions on Certain Collection Techniques.

2-201. General Provisions.

(a) The activities described in Sections 2-202 through 2-208 shall be undertaken only as permitted by this Order and by procedures established by the head of the agency concerned and approved by the Attorney General. Those procedures shall protect constitutional rights and privacy, ensure that information is gathered by the least intrusive means possible, and limit use of such information to lawful governmental purposes.

(b) Activities described in sections 2-202 through 2-205 for which a warrant would be required if undertaken for law enforcement rather than intelligence purposes shall not be undertaken against a United States person without a judicial warrant, unless the President has authorized the type of activity involved and the Attorney General has both approved the particular activity and determined that there is probable cause to believe that the United States person is an agent of a foreign power.

2-202. Electronic Surveillance. The CIA may not engage in any electronic surveillance within the United States. No agency within the Intelligence Community shall engage in any electronic surveillance directed against a United States person abroad or designed to intercept a communication sent from, or intended for receipt within, the United States except as permitted by the procedures established pursuant to section 2-201. Training of personnel by agencies in the Intelligence Community in the use of electronic communications equipment, testing by such agencies of such equipment, and the use of measures to determine the existence and capability of electronic surveillance equipment being used unlawfully shall not be prohibited and shall also be governed by such procedures. Such activities shall be limited in scope and duration to those necessary to carry out the training, testing or countermeasures purpose. No information derived from communications intercepted in the course of such training, testing or use of countermeasures may be retained or used for any other purpose.

2-203. Television Cameras and Other Monitoring. No agency within the Intelligence Community shall use any electronic or mechanical device surreptitiously and continuously to monitor any person within the United States, or any United States person abroad, except as permitted by the procedures established pursuant to Section 2-201.

2-204. Physical Searches. No agency within the Intelligence Community except the FBI may conduct any unconsented physical searches within the United States. All such searches conducted by the FBI, as well as all such searches conducted by any agency within the Intelligence Community outside the United States and directed against United States persons, shall be undertaken only as permitted by procedures established pursuant to Section 2-201.

2-205. Mail Surveillance. No agency within the Intelligence Community shall open mail or examine envelopes in United States postal channels, except in accordance with applicable statutes and regulations. No agency within the Intelligence Community shall open mail of a United States person abroad except as permitted by procedures established pursuant to Section 2-201.

2-206. Physical Surveillance. The FBI may conduct physical surveillance directed against United States persons or others only in the course of a lawful investigation. Other agencies within the Intelligence Community may not undertake any physical surveillance directed against a United States person unless:

3686

THE PRESIDENT

(a) The surveillance is conducted outside the United States and the person being surveilled is reasonably believed to be acting on behalf of a foreign power, engaging in international terrorist activities, or engaging in narcotics production or trafficking;

(b) The surveillance is conducted solely for the purpose of identifying a person who is in contact with someone who is the subject of a foreign intelligence or counterintelligence investigation; or

(c) That person is being surveilled for the purpose of protecting foreign intelligence and counterintelligence sources and methods from unauthorized disclosure or is the subject of a lawful counterintelligence, personnel, physical or communications security investigation.

(d) No surveillance under paragraph (c) of this section may be conducted within the United States unless the person being surveilled is a present employee, intelligence agency contractor or employee of such a contractor, or is a military person employed by a non-intelligence element of a military service. Outside the United States such surveillance may also be conducted against a former employee, intelligence agency contractor or employee of a contractor or a civilian person employed by a non-intelligence element of an agency within the Intelligence Community. A person who is in contact with such a present or former employee or contractor may also be surveilled, but only to the extent necessary to identify that person.

2-207. *Undisclosed Participation in Domestic Organizations.* No employees may join, or otherwise participate in, any organization within the United States on behalf of any agency within the Intelligence Community without disclosing their intelligence affiliation to appropriate officials of the organization, except as permitted by procedures established pursuant to Section 2-201. Such procedures shall provide for disclosure of such affiliation in all cases unless the agency head or a designee approved by the Attorney General finds that non-disclosure is essential to achieving lawful purposes, and that finding is subject to review by the Attorney General. Those procedures shall further limit undisclosed participation to cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation;

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power; or

(c) The participation is strictly limited in its nature, scope and duration to that necessary for other lawful purposes relating to foreign intelligence and is a type of participation approved by the Attorney General and set forth in a public document. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members.

2-208. *Collection of Nonpublicly Available Information.* No agency within the Intelligence Community may collect, disseminate or store information concerning the activities of United States persons that is not available publicly, unless it does so with their consent or as permitted by procedures established pursuant to Section 2-201. Those procedures shall limit collection, storage or dissemination to the following types of information:

(a) Information concerning corporations or other commercial organizations or activities that constitutes foreign intelligence or counterintelligence;

(b) Information arising out of a lawful counterintelligence or personnel, physical or communications security investigation;

(c) Information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting, which is needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure;

THE PRESIDENT

3687

- (d) Information needed solely to identify individuals in contact with those persons described in paragraph (c) of this section or with someone who is the subject of a lawful foreign intelligence or counterintelligence investigation;
- (e) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons;
- (f) Information constituting foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 2-202 or from cooperating sources in the United States;
- (g) Information about a person who is reasonably believed to be acting on behalf of a foreign power, engaging in international terrorist activities or narcotics production or trafficking, or endangering the safety of a person protected by the United States Secret Service or the Department of State;
- (h) Information acquired by overhead reconnaissance not directed at specific United States persons;
- (i) Information concerning United States persons abroad that is obtained in response to requests from the Department of State for support of its consular responsibilities relating to the welfare of those persons;
- (j) Information collected, received, disseminated or stored by the FBI and necessary to fulfill its lawful investigative responsibilities; or
- (k) Information concerning persons or activities that pose a clear threat to any facility or personnel of an agency within the Intelligence Community. Such information may be retained only by the agency threatened and, if appropriate, by the United States Secret Service and the FBI.

2-3. *Additional Restrictions and Limitations.*

2-301. *Tax Information.* No agency within the Intelligence Community shall examine tax returns or tax information except as permitted by applicable law.

2-302. *Restrictions on Experimentation.* No agency within the Intelligence Community shall sponsor, contract for, or conduct research on human subjects except in accordance with guidelines issued by the Department of Health, Education and Welfare. The subject's informed consent shall be documented as required by those guidelines.

2-303. *Restrictions on Contracting.* No agency within the Intelligence Community shall enter into a contract or arrangement for the provision of goods or services with private companies or institutions in the United States unless the agency sponsorship is known to the appropriate officials of the company or institution. In the case of any company or institution other than an academic institution, intelligence agency sponsorship may be concealed where it is determined, pursuant to procedures approved by the Attorney General, that such concealment is necessary to maintain essential cover or proprietary arrangements for authorized intelligence purposes.

2-304. *Restrictions on Personnel Assigned to Other Agencies.* An employee detailed to another agency within the federal government shall be responsible to the host agency and shall not report to the parent agency on the affairs of the host agency unless so directed by the host agency. The head of the host agency, and any successor, shall be informed of the employee's relationship with the parent agency.

2-305. *Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2-306. *Restrictions on Special Activities.* No component of the United States Government except an agency within the Intelligence Community may conduct any special activity. No such agency except the CIA (or the military services in wartime) may conduct any special activity unless the President determines, with

THE PRESIDENT

the SCC's advice, that another agency is more likely to achieve a particular objective.

2-307. *Restrictions on Indirect Participation in Prohibited Activities.* No agency of the Intelligence Community shall request or otherwise encourage, directly or indirectly, any person, organization, or government agency to undertake activities forbidden by this Order or by applicable law.

2-308. *Restrictions on Assistance to Law Enforcement Authorities.* Agencies within the Intelligence Community other than the FBI shall not, except as expressly authorized by law:

(a) Provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration (or its successor agencies) or to state or local police organizations of the United States; or

(b) Participate in or fund any law enforcement activity within the United States.

2-309. *Permissible Assistance to Law Enforcement Authorities.* The restrictions in Section 2-308 shall not preclude:

(a) Cooperation with appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of any agency within the Intelligence Community;

(b) Participation in law enforcement activities, in accordance with law and this Order, to investigate or prevent clandestine intelligence activities by foreign powers, international narcotics production and trafficking, or international terrorist activities; or

(c) Provision of specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be governed by procedures approved by the Attorney General.

2-310. *Permissible Dissemination and Storage of Information.* Nothing in Sections 2-201 through 2-309 of this Order shall prohibit:

(a) Dissemination to appropriate law enforcement agencies of information which indicates involvement in activities that may violate federal, state, local or foreign laws;

(b) Storage of information required by law to be retained;

(c) Dissemination of information covered by Section 2-208 (a)-(j) to agencies within the Intelligence Community or entities of cooperating foreign governments; or

(d) Lawful storage or dissemination of information solely for administrative purposes not related to intelligence or security.

SECTION 3**OVERSIGHT OF INTELLIGENCE ORGANIZATIONS****3-1. *Intelligence Oversight Board.***

3-101. *Membership.* The President's Intelligence Oversight Board (IOB) shall function within the White House. The IOB shall have three members who shall be appointed by the President and who shall be from outside the government and be qualified on the basis of ability, knowledge, diversity of background and experience. No member shall have any personal interest in any contractual relationship with any agency within the Intelligence Community. One member shall be designated by the President as chairman.

3-102. *Duties.* The IOB shall:

(a) Review periodically the practices and procedures of the Inspectors General and General Counsel with responsibilities for agencies within the Intelligence Community for discovering and reporting to the IOB intelligence

THE PRESIDENT

3689

activities that raise questions of legality or propriety, and consider written and oral reports referred under Section 3-201;

(b) Review periodically for adequacy the internal guidelines of each agency within the Intelligence Community concerning the legality or propriety of intelligence activities;

(c) Report periodically, at least quarterly, to the President on its findings; and report in a timely manner to the President any intelligence activities that raise serious questions of legality or propriety;

(d) Forward to the Attorney General, in a timely manner, reports received concerning intelligence activities in which a question of legality has been raised or which the IOB believes to involve questions of legality; and

(e) Conduct such investigations of the intelligence activities of agencies within the Intelligence Community as the Board deems necessary to carry out its functions under this Order.

3-103. *Restriction on Staff.* No person who serves on the staff of the IOB shall have any contractual or employment relationship with any agency within the Intelligence Community.

3-2. *Inspectors General and General Counsel.* Inspectors General and General Counsel with responsibility for agencies within the Intelligence Community shall:

3-201. Transmit timely reports to the IOB concerning any intelligence activities that come to their attention and that raise questions of legality or propriety;

3-202. Promptly report to the IOB actions taken concerning the Board's findings on intelligence activities that raise questions of legality or propriety;

3-203. Provide to the IOB information requested concerning the legality or propriety of intelligence activities within their respective agencies;

3-204. Formulate practices and procedures for discovering and reporting to the IOB intelligence activities that raise questions of legality or propriety; and

3-205. Report to the IOB any occasion on which the Inspectors General or General Counsel were directed not to report any intelligence activity to the IOB which they believed raised questions of legality or propriety.

3-3. *Attorney General.* The Attorney General shall:

3-301. Receive and consider reports from agencies within the Intelligence Community forwarded by the IOB;

3-302. Report to the President in a timely fashion any intelligence activities which raise questions of legality;

3-303. Report to the IOB and to the President in a timely fashion decisions made or actions taken in response to reports from agencies within the Intelligence Community forwarded to the Attorney General by the IOB;

3-304. Inform the IOB of legal opinions affecting the operations of the Intelligence Community; and

3-305. Establish or approve procedures, as required by this Order, for the conduct of intelligence activities. Such procedures shall ensure compliance with law, protect constitutional rights and privacy, and ensure that any intelligence activity within the United States or directed against any United States person is conducted by the least intrusive means possible. The procedures shall also ensure that any use, dissemination and storage of information about United States persons acquired through intelligence activities is limited to that necessary to achieve lawful governmental purposes.

3-4. *Congressional Intelligence Committees.* Under such procedures as the President may establish and consistent with applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative

3690

THE PRESIDENT

Branches and by law to protect sources and methods, the Director of Central Intelligence and heads of departments and agencies of the United States involved in intelligence activities shall:

3-401. Keep the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate fully and currently informed concerning intelligence activities, including any significant anticipated activities which are the responsibility of, or engaged in, by such department or agency. This requirement does not constitute a condition precedent to the implementation of such intelligence activities;

3-402. Provide any information or document in the possession, custody, or control of the department or agency or person paid by such department or agency, within the jurisdiction of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, upon the request of such committee; and

3-403. Report in a timely fashion to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

SECTION 4**GENERAL PROVISIONS****4-1. Implementation.**

4-101. Except as provided in section 4-105 of this section, this Order shall supersede Executive Order 11905, "United States Foreign Intelligence Activities," dated February 18, 1976; Executive Order 11985, same subject, dated May 13, 1977; and Executive Order 11994, same subject, dated June 1, 1977.

4-102. The NSC, the Secretary of Defense, the Attorney General and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order.

4-103. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order.

4-104. The Attorney General shall have sole authority to issue and revise procedures required by section 2-201 for the activities of the FBI relating to foreign intelligence and counterintelligence.

4-105. Where intelligence activities under this Order are to be conducted pursuant to procedures approved or agreed to by the Attorney General, those activities may be conducted under terms and conditions of Executive Order 11905 and any procedures promulgated thereunder until such Attorney General procedures are established. Such Attorney General procedures shall be established as expeditiously as possible after the issuance of this Order.

4-106. In some instances, the documents that implement this Order will be classified because of the sensitivity of the information and its relation to national security. All instructions contained in classified documents will be consistent with this Order. All procedures promulgated pursuant to this Order will be made available to the Congressional intelligence committees in accordance with Section 3-402.

4-107. Unless otherwise specified, the provisions of this Order shall apply to activities both within and outside the United States, and all references to law are to applicable laws of the United States, including the Constitution and this Order. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

4-2. Definitions. For the purposes of this Order, the following terms shall have these meanings:

THE PRESIDENT

3691

4-201. *Communications security* means protective measures taken to deny unauthorized persons information derived from telecommunications of the United States Government related to national security and to ensure the authenticity of such telecommunications.

4-202. *Counterintelligence* means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, but not including personnel, physical, document, or communications security programs.

4-203. *Electronic Surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction finding equipment solely to determine the location of a transmitter.

4-204. *Employee* means a person employed by, assigned to, or acting for an agency within the Intelligence Community.

4-205. *Foreign Intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

4-206. *Intelligence* means foreign intelligence and counterintelligence.

4-207. *Intelligence Community and agency or agencies within the Intelligence Community* refer to the following organizations:

(a) The Central Intelligence Agency (CIA);

(b) The National Security Agency (NSA);

(c) The Defense Intelligence Agency;

(d) The Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(e) The Bureau of Intelligence and Research of the Department of State;

(f) The intelligence elements of the military services, the Federal Bureau of Investigation (FBI), the Department of the Treasury, the Department of Energy, and the Drug Enforcement Administration (DEA); and

(g) The staff elements of the Office of the Director of Central Intelligence.

4-208. *Intelligence product* means the estimates, memoranda and other reports produced from the analysis of available information.

4-209. *International terrorist activities* means any activity or activities which:

(a) involves killing, causing serious bodily harm, kidnapping, or violent destruction of property, or an attempt or credible threat to commit such acts; and

(b) appears intended to endanger a protegee of the Secret Service or the Department of State or to further political, social or economic goals by intimidating or coercing a civilian population or any segment thereof, influencing the policy of a government or international organization by intimidation or coercion, or obtaining widespread publicity for a group or its cause; and

(c) transcends national boundaries in terms of the means by which it is accomplished, the civilian population, government, or international organization it appears intended to coerce or intimidate, or the locale in which its perpetrators operate or seek asylum.

4-210. *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President.

(a) The programs of the CIA;

(b) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of

3692

THE PRESIDENT

Defense for the collection of specialized national foreign intelligence through reconnaissance except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(c) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(d) Activities of the staff elements of the Office of the Director of Central Intelligence.

(e) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

4-211. *Physical surveillance* means an unconsented, systematic and deliberate observation of a person by any means on a continuing basis, or unconsented acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance. This definition does not include overhead reconnaissance not directed at specific United States persons.

4-212. *Special activities* means activities conducted abroad in support of national foreign policy objectives which are designed to further official United States programs and policies abroad and which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but not including diplomatic activity or the collection and production of intelligence or related support functions.

4-213. *United States*, when used to describe a place, includes the territories of the United States.

4-214. *United States person* means a citizen of the United States, an alien lawfully admitted for permanent residence, an unincorporated association organized in the United States or substantially composed of United States citizens or aliens admitted for permanent residence, or a corporation incorporated in the United States..



THE WHITE HOUSE,

January 24, 1978.

[FR Doc. 78-2420 Filed 1-25-78; 11:12 am]

EDITORIAL NOTE: The President's statement and remarks of Jan. 24, 1978, on signing Executive Order 12036, are printed in the Weekly Compilation of Presidential Documents (vol. 14, No. 4).

THE PRESIDENT

7729

27

of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(2) Electronic surveillance to intercept a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the Attorney General; provided, that the Central Intelligence Agency shall not perform electronic surveillance within the United States, except for the purpose of testing equipment under procedures approved by the Attorney General consistent with law.

(3) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General.

(4) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(5) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(6) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities

THE PRESIDENT

28

or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.

(7) Collection of information, however acquired, concerning the domestic activities of United States persons except:

(i) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or counterintelligence.

(ii) Information concerning present or former employees, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry.

(iii) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.

THE PRESIDENT

7731

29

(iv) Foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 5(b)(2); or foreign intelligence acquired from cooperating sources in the United States.

(v) Information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities.

(vi) Information concerning persons or activities that pose a clear threat to foreign intelligence agency facilities or personnel, provided, that such information is retained only by the foreign intelligence agency threatened and that proper coordination with the Federal Bureau of Investigation is accomplished.

(c) Dissemination and Storage. Nothing in this section of this Order shall prohibit:

(1) Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of law.

(2) Storage of information required by law to be retained.

(3) Dissemination to foreign intelligence agencies of information of the subject matter types listed in Section 5(b)(7).

(d) Restrictions on Experimentation. Foreign intelligence agencies shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research.

(e) Assistance to Law Enforcement Authorities.

(1) No foreign intelligence agency shall, except as expressly authorized by law (i) provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to State or local police organizations of the United States or (ii) participate in or fund any law enforcement activity within the United States.

(2) These prohibitions shall not, however, preclude: (i) cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence or counterintelligence or (ii) provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

THE PRESIDENT

7733

31

(f) Assignment of Personnel. An employee of a foreign intelligence agency detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency.

(g) Prohibition of Assassination. No employee of the United States Government shall engage in, or conspire to engage in, political assassination.

(h) Implementation.

(1) This section of this Order shall be effective on March 1, 1976. Each department and agency affected by this section of this Order shall promptly issue internal directives to implement this section with respect to its foreign intelligence and counterintelligence operations.

(2) The Attorney General shall, within ninety days of the effective date of this section of this Order, issue guidelines relating to activities of the Federal Bureau of Investigation in the areas of foreign intelligence and counterintelligence.

Sec. 6. Oversight of Intelligence Organizations.

(a) There is hereby established an Intelligence Oversight Board, hereinafter referred to as the Oversight Board.

(1) The Oversight Board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and experience. The members of the Oversight Board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969). No member of the Oversight Board shall have any personal contractual relationship with any agency or department of the Intelligence Community.

(2) One member of the Oversight Board shall be designated by the President as its Chairman.

(3) The Oversight Board shall:

(i) Receive and consider reports by Inspectors General and General Counsels of the Intelligence Community concerning activities that raise questions of legality or propriety.

(ii) Review periodically the practices and procedures of the Inspectors General and General Counsels of the Intelligence Community designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(iii) Review periodically with each member of the Intelligence Community their internal guidelines to ensure their adequacy.

(iv) Report periodically, at least quarterly,

to the Attorney General and the President on its findings.

(v) Report in a timely manner to the Attorney General and to the President any activities that raise serious questions about legality.

(vi) Report in a timely manner to the President any activities that raise serious questions about propriety.

(b) Inspectors General and General Counsels within the Intelligence Community shall:

(1) Transmit to the Oversight Board reports of any activities that come to their attention that raise questions of legality or propriety.

(2) Report periodically, at least quarterly, to the Oversight Board on its findings concerning questionable activities, if any.

(3) Provide to the Oversight Board all information requested about activities within their respective departments or agencies.

(4) Report to the Oversight Board any occasion on which they were directed not to report any activity to the Oversight Board by their agency or department heads.

(5) Formulate practices and procedures designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(c) Heads of intelligence agencies or departments shall:

(1) Report periodically to the Oversight Board on any activities of their organizations that raise questions of legality or propriety.

(2) Instruct their employees to cooperate fully with the Oversight Board.

(3) Ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties assigned by paragraph (4) of this section.

(d) The Attorney General shall:

(1) Receive and consider reports from the Oversight Board.

(2) Report periodically, at least quarterly, to the President with respect to activities of the Intelligence Community, if any, which raise questions of legality.

(e) The Oversight Board shall receive staff support. No person who serves on the staff of the Oversight Board shall have any contractual or employment relationship with any department or agency in the Intelligence Community.

(f) The President's Foreign Intelligence Advisory Board established by Executive Order No. 11460 of March 20, 1969, remains in effect.

Sec. 7. Secrecy Protection.

(a) In order to improve the protection of sources

THE PRESIDENT

7737

35

and methods of intelligence, all members of the Executive branch and its contractors given access to information containing sources or methods of intelligence shall, as a condition of obtaining access, sign an agreement that they will not disclose that information to persons not authorized to receive it.

(b) In the event of any unauthorized disclosure of information concerning sources or methods of intelligence, the names of any persons found to have made unauthorized disclosure shall be forwarded (1) to the head of applicable departments or agencies for appropriate disciplinary action; and (2) to the Attorney General for appropriate legal action.

(c) In the event of any threatened unauthorized disclosure of information concerning sources or methods of intelligence by a person who has agreed not to make such disclosure, the details of the threatened disclosure shall be transmitted to the Attorney General for appropriate legal action, including the seeking of a judicial order to prevent such disclosure.

(d) In further pursuit of the need to provide protection for other significant areas of intelligence, the Director of Central Intelligence is authorized to promulgate rules and regulations to expand the scope of agreements secured from those persons who, as an aspect of their relationship with the United States Government, have access to classified intelligence material.

Sec. 8. Enabling Data.

(a) The Committee on Foreign Intelligence and the Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

(b) All existing National Security Council and Director of Central Intelligence directives shall be amended to be consistent with this Order within ninety days of its effective date.

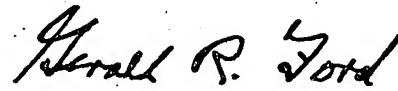
(c) This Order shall supersede the Presidential Memorandum of November 5, 1971, on the "Organization and Management of the U.S. Foreign Intelligence Community."

(d) Heads of departments and agencies within the Intelligence Community shall issue supplementary directives to their organizations consistent with this Order within ninety days of its effective date.

(e) This Order will be implemented within current manning authorizations of the Intelligence Community.

To this end, the Director of the Office of Management and Budget will facilitate the required realignment of personnel positions. The Director of the Office of Management and Budget will also assist in the allocation of appropriate facilities.

THE WHITE HOUSE,
February 18, 1976.



[FR Doc. 76-5010 Filed 2-18-76;12:36 pm]

EDITORIAL NOTE: For the President's remarks at his news conference of February 17, 1976, announcing a reorganization of the intelligence community, see the Weekly Compilation of Presidential Documents (vol. 12, no. 17).